

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA, .
Plaintiff, .
vs. . Case No. 24-cv-04055,
APPLE INC., . Newark, New Jersey
Defendant, . April 19, 2024
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.
.
And related cases, Goldfus v. .
Apple, 24-4108; Ultra Home .
Set LLC v. Apple, 24-4223; .
Kolinsky v. Apple, 24-4232; .
Levine v. Apple, 24-4284; .
Kurtz v. Apple, 24-4355; .
Watson v. Apple, 24-4445; .
Moody v. Apple, 24-4560; .
Siano v. Apple, 24-4568; .
Melkowski v. Apple, 24-4827; .
and Crocco v. Apple, 24-5281. .
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TRANSCRIPT OF HEARING
BEFORE THE HONORABLE LEDA DUNN WETTRE
UNITED STATES MAGISTRATE JUDGE

This transcript has been reviewed and revised in accordance with L. Civ. R. 52.1.

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1 (Commencement of proceedings)

3 THE COURT: Hi, everyone. This is Magistrate Judge
4 Wettre. And we are on the record in a number of cases:
5 United States versus Apple, Docket Number 24-4055 and 10
6 related class actions, which are Goldfus v. Apple, 24-4108;
7 Ultra Home Set LLC v. Apple, 24-4223; Kolinsky v. Apple,
8 24-4232; Levine v. Apple, 24-4284; Kurtz v. Apple, 24-4355;
9 Watson v. Apple, 24-4445; Moody v. Apple, 24-4560; Siano v.
0 Apple, 24-4568; Melkowski v. Apple, 24-4827; and Crocco v.
1 Apple, 24-5281.

12 So I'm going to start by taking a roll call of
13 appearances. I heard when I dialled in there are about 50
14 people on the line, and that's a lot of people to get
15 through.

16 So I'm going to streamline the process as much as
17 possible. And so for today's conference, solely in the
18 interest of time, I will only need one attorney to note their
19 appearance for the record for each party.

20 I'll give you a moment to confer with your
21 co-counsel offline to designate one attorney to announce
22 their appearance.

When I call your party's name, I will take that attorney's appearance and ask them -- and ask the attorneys to spell their name for the record.

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1 I know that many of you have filed motions for
2 admission pro hac vice, which I was unable to address prior
3 to having this conference. You may nevertheless enter an
4 appearance today and just note that your pro hac vice
5 application is pending.

6 If for some reason there are any parties who do not
7 appear, this call is being recorded, and the transcript will
8 available for their review.

9 So let me start first with United States v. Apple,
10 as I said, 24-4055, and I'll first ask for one appearance of
11 an attorney for the United States.

12 MR. LASKEN: Good afternoon, Your Honor. May it
13 please the Court, Jonathan Lasken counsel for the United
14 States, Lasken, L-a-s-k-e-n, Jonathan, J-o-n-a-t-h-a-n.

15 THE COURT: Thank you very much and good afternoon.

16 Next for the State of New Jersey.

17 MS. PITTS: Good afternoon, Your Honor, Isabella
18 Pitt, representing the New Jersey Attorney General. And I am
19 also joined by the Minnesota -- counsel for the Minnesota
20 Attorney General. And we are here jointly to speak on behalf
21 of the plaintiff states.

22 THE COURT: Okay. I'll be doing all of the
23 talking, so I just need an appearance.

24 So, Ms. Pitt, you're on behalf of New Jersey and
25 Minnesota?

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1 MS. PITTS: No. Minnesota is also appearing, but
2 we're on behalf of all of the plaintiff states.

3 THE COURT: All right.

4 And for the State of Arizona?

5 MS. PITTS: Only the State of New Jersey is going to
6 be appearing with Minnesota --

7 THE COURT: Okay. For which states? Sorry,
8 Ms. Pitt.

9 Just tell me for what states. For every other
10 state?

11 MS. PITTS: Yes.

12 THE COURT: Okay. Great.

13 All right.

14 And then I'll skip to defendant Apple.

15 MR. PRIMIS: Your Honor, this is Craig Primis from
16 Kirkland & Ellis for Apple.

17 THE COURT: Okay. Good afternoon.

18 MR. PRIMIS: Good afternoon.

19 THE COURT: All right. So moving on to Goldfus v.
20 Apple, 24-4108, may I have an appearance for plaintiff,
21 please.

22 MS. BARTLETT: Good afternoon, Your Honor. This is
23 Caroline Bartlett from Carella Byrne on behalf of plaintiff.

24 THE COURT: Good afternoon to you.

25 And for Apple in that case?

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1 MR. KLEINBRODT: Good afternoon, Your Honor. This
2 is Julian Kleinbrodt from Gibson Dunn & Crutcher on behalf of
3 Apple.

4 THE COURT: Okay. Would you please spell your last
5 name, sir.

6 MR. KLEINBRODT: Yes, Kleinbrodt is
7 K-l-e-i-n-b-r-o-d-t. And for the sake of expediting, I
8 appear for Apple in all of these follow-on class actions
9 today.

10 THE COURT: Okay. And all of 10 class actions,
11 you're Apple's counsel?

12 MR. KLEINBRODT: Correct, Your Honor.

13 THE COURT: Okay. Very good.

14 All right.

15 So on Ultra Home Set LLC, may I have an appearance
16 for the plaintiff.

17 MS. BARTLETT: Again, Your Honor, this is Caroline
18 Bartlett on behalf of plaintiffs from Carella Byrne.

19 THE COURT: Thank you, Ms. Bartlett.

20 And on Kolinsky v. Apple, 24-4232, an appearance
21 for plaintiff, please --

22 (Simultaneous conversation)

23 THE COURT: Start over again.

24 MR. BALL: Gordon Ball for the plaintiffs, and my
25 pro hac is pending.

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1 THE COURT: Okay.

2 MR. BALL: And that was Dan -- who also is on the
3 phone.

4 THE COURT: Okay. Could you spell your name, sir.

5 MR. BALL: B-a-l-l, Gordon Ball. B-a-l-l.

6 THE COURT: Okay. Very good. Thank you.

7 And for the plaintiff in Levine v. Apple, may I
8 have one appearance, please.

9 MR. HEO: Good afternoon, Your Honor. This is
10 Andrew Heo for plaintiff Louis Levine. That's Heo.

11 THE COURT: Say that again, please.

12 MR. HEO: Andrew Heo for plaintiff Louis Levine.
13 H-e-o, last name.

14 THE COURT: Okay. Thank you.

15 And for plaintiff in Kurtz v. Apple.

16 MR. BARILE: Good morning, Your Honor. This is
17 Peter Barile of Lowey Dannenberg for Stacey Kurtz. I'm
18 appearing pro hac vice. My last name is spelled B-a-r-i-l-e.

19 THE COURT: Very good. Thank you.

20 And may I have plaintiff's counsel in Watson.

21 MR. GITTLEMAN: Good afternoon, Your Honor. This
22 is Jeffrey Gittleman from Pogust Goodhead. It's
23 G-i-t-t-l-e-m-a-n.

24 THE COURT: Okay. Good afternoon.

25 And next for plaintiff in Moody.

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1 MR. GRUNFELD: Good afternoon, Your Honor. This is
2 Ken Grunfeld from Kopelowitz Ostrow on behalf of Moody and
3 other Moody plaintiffs.

4 THE COURT: Okay. And spelling, please,
5 Mr. Grunfeld.

6 MR. GRUNFELD: Sure. My last name is Grunfeld,
7 G-r-u-n-f-e-l-d.

8 THE COURT: Okay. So did you say Moody and another
9 case? I missed that last part.

10 MR. GRUNFELD: No. There are other named class
11 representatives in the Moody case.

12 THE COURT: Okay. Got it. I understand. Thank
13 you.

14 And in the Siano case, may I have an appearance for
15 plaintiff.

16 MS. SCULLION: Good afternoon, Your Honor. This is
17 Jennifer Scullion from Seeger Weiss. It's S-c-u-l-l-i-o-n.

18 THE COURT: Good afternoon.

19 And for Melkowski, an appearance for the plaintiff,
20 please.

21 MR. SCHWARTZ: Good afternoon, Your Honor. It's
22 Steve Schwartz from the Chimicles Schwartz firm. And that's
23 S-c-h-w-a-r-t-z.

24 THE COURT: Thank you.

25 And, finally, for the plaintiff in Crocco.

1 MR. ALBERT: Good afternoon, Your Honor. This is
2 Lee Albert. It's A-l-b-e-r-t is the last name. I'm here for
3 the plaintiff Matthew Crocco from the firm Glancy Prongay &
4 Murray.

5 THE COURT: Okay. Very good. Thank you, everyone.

6 So as you know, I convened this conference for the
7 purpose of making disclosures pursuant to the Code of Conduct
8 governing U.S. judges. So just by way of the canons that
9 potentially apply to judicial disclosures in similar
10 situations, Canon 3C(1)(c) of the Code of Conduct provides
11 that a judge shall disqualify herself if "the judge knows
12 that the judge, individually or as a fiduciary, or the
13 judge's spouse or minor child residing in the judge's
14 household, has a financial interest in the subject matter in
15 controversy or in a party to the proceeding, or any other
16 interest that could be affected substantially by the outcome
17 of the proceeding."

18 Similarly, Canon 3C(1)(d)(iii) provides that a
19 judge shall disqualify herself if "the judge or the judge's
20 spouse or a person related to either within the third degree
21 of relationship, or the spouse of such a person is known by
22 the judge to have an interest that could be substantially
23 affected by the outcome of the proceeding."

24 Further, pursuant to Canon 3D, "instead of
25 withdrawing from the proceeding, a judge disqualified by

1 Canon 3C(1) may ... disclose on the record the basis of
2 disqualification. The judge may participate in the
3 proceeding if, after that disclosure, the parties and their
4 lawyers have an opportunity to confer outside the presence of
5 the judge, all agree in writing or on the record that the
6 judge should not be disqualified, and the judge is then
7 willing to participate. The agreement should be incorporated
8 in the record of the proceeding."

9 I do not believe I have any recusable conflict here
10 under the foregoing judicial canons, but I feel it
11 appropriate to make disclosures anyway in an abundance of
12 caution.

13 Specifically, my husband, whose name is Christian
14 Wettre, is an executive at a corporation called Sugar,
15 spelled like the spice, CRM. Apple is a customer of his
16 company. However, my husband's compensation is not based in
17 any direct manner on Apple. Further, to the best of my
18 knowledge, neither his income nor his employment status would
19 be substantially affected by the outcome of these
20 proceedings.

21 In addition, neither I nor any member of my
22 household has any other financial interest in Apple; no stock
23 or anything of that nature.

24 Although not a basis for conflict, I will add that
25 I and my members of my household do use Apple products.

1 I represent that SugarCRM's business relationship
2 with Apple will not have any impact on my ability to be fair
3 and impartial in these proceedings as the Magistrate Judge.

4 Therefore, I do not believe that my recusal is
5 required under the Code of Conduct. But it is always best,
6 in my view, to reveal at the outset of the case any
7 information that might give pause to a party in having the
8 judge remain assigned to the case. So it is in that spirit
9 that I make these disclosures.

10 So now I'm going to ask you to please advise your
11 clients of these disclosures so that they may take a position
12 on my continuing to serve as the Magistrate Judge on these
13 cases. And the position of your party you represent should
14 be in writing and filed on the docket in your respective
15 cases on or before April 30th, 2024.

16 If you have any questions pertaining to your
17 client's decision in this regard, please submit those
18 questions in writing on the docket before that date -- namely
19 before April 30th -- so that I may respond to the extent
20 necessary or appropriate.

21 So that's all I have for you. And thanks to
22 everyone for appearing on short notice on this call so I can
23 make disclosures.

24 Okay. I did not plan to have a Q&A session because
25 I do want any questions submitted in writing. But I don't

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1 want to muffle anyone who feels it necessary to say something
2 before I end the phone call.

3 All right. Hearing nothing, I will wish you a good
4 day and a good weekend. Thank you.

5 (Conclusion of proceedings)

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|Certification

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11 I further certify that I am in no way related to any of
12 the parties hereto nor am I in any way interested in the
13 outcome hereof.

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S/ *Sara L. Kern*

29th of April, 2024

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